

TRANSFER
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Doc # 2005004061
Book 8306 Page 0122

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or
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EASEMENT DEED

Faith Evangelical Free Church (hereinafter "FEFC"), a Maine independent local church located at 250 Kennedy Memorial Drive, Waterville, Kennebec County, Maine grants to Price Enterprises LLC (hereinafter "Price"), a Maine limited liability company whose mailing address 51 Main Street, Waterville, Maine, 04901, its heirs and assigns, with ~~quitclaim~~ covenants, an easement and right of way for ingress and egress over the property located on Kennedy Memorial Drive in Waterville, Maine, said easement being more particularly described as follows:

1. *Description of easement area.* The area to be affected by this easement is more particularly described as follows:

Part A

A certain right of way for the purpose of ingress and egress over land now or formerly owned by Faith Evangelical Free Church (FEFC), as recorded in Book 7053 at Page 143 of the Kennebec County Registry of Deeds, located on the southerly side of Kennedy Memorial Drive, Waterville, Kennebec County, Maine, bounded and described as follows, to wit:

Part A is comprised of the same land and boundaries of a right of way previously conveyed to Gardiner Savings Institution, FSB by SBC Waterville Twin Theatres Corp, as recorded in Book 5280 at Page 197 of the Kennebec County Registry of Deeds. Specifically, the right of way running along the westerly side of the land conveyed by that deed. The description of that right of way, as it is described in Book 5280 at Page 197, is vague in its physical location. The description of Part A is for creating a more definitive meets and bounds description of the right of way limits. However, is not intended to change or limit the rights granted previously to Gardiner Savings Institution, FSB.

Beginning at a steel pin found marking the northwest corner of land now or formerly of Gardiner Savings Institute as recorded in Book 5280 at Page 197 of the Kennebec County Registry of Deeds. Said pin also marks the apparent southerly limits of Kennedy Memorial Drive and the northeast corner of the herein-described right of way.

Thence North fifty-six degrees eight minutes West (N 56° 08' W) along the apparent southerly limits of Kennedy Memorial Drive for a distance of eighty-eight and five tenths feet (±88.5'), more or less, to a point marking the northwest corner of the herein-described Parcel "A." (Approximations are due to the vagueness of the previously described right of way to Gardiner Savings Institution, FSB and the inherent nature of the edge of pavement, from which this point is based.)

Thence South thirty-three degrees fifty-two minutes West (S 33° 52' W) along the remaining land of FEFC and the easterly side of Part B, described herein, and the westerly side of Part A for a distance of one hundred seventy-four and nine tenths feet (174.9') to point marking the southwesterly corner of Part

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A.

Thence South fifty-six degrees nine minutes East (S 56° 09' E) along the remaining land of FEFC and the southerly side of the herein-described Part A for a distance of eighty-eight and five tenths feet (88.5') to a point. [This line was designed to be a westerly extension of the southerly limits of the second right of way referenced in the deed to Gardiner Savings Institution, FSB. This second right of way is described as being twenty-five feet wide and running along the southerly line of the parcel of land granted by that deed (see Book 5280 at Page 198 for a description of the second right of way granted to Gardiner Savings Institution, FSB)].

Thence North thirty-three degrees fifty-two minutes East (N 33° 52' E) along the westerly line of the 'second' right of way to Gardiner Savings Institution, FSB, referenced in the previous paragraph, to a steel pin that marks the southwest corner of land now or formerly owned by Gardiner Savings Institution, FSB.

Thence continuing North thirty-three degrees fifty-two minutes East (N 33° 52' E) along the westerly line of Gardiner Savings Institution, FSB to a steel pin marking the northwest corner of Gardiner Savings Institution, FSB, and the point of beginning.

Part A contains fifteen thousand four hundred seventy-nine square feet (15,479 sq. ft.), more or less, and is a portion of the land granted to Faith Evangelical Free Church by SBC Port Theatres Corp by a deed recorded on September 10, 2002 in Book 7053 at Page 143 of the Kennebec County Registry of Deeds. Part A is located within the westerly portion of Parcel One described in said deed.

Reserving the first right of way granted to Gardiner Savings Institution, FSB as described in Book 5280 at Page 197 of the Kennebec County Registry of Deeds.

Part B

A certain right of way for the purpose of ingress and egress over land now or formerly owned by Faith Evangelical Free Church (FEFC), as recorded in Book 7053 at Page 143 of the Kennebec County Registry of Deeds, located off the southerly side Kennedy Memorial Drive, Waterville, Kennebec County, Maine, bounded and described as follows, to wit:

Beginning at a point marking the southeast corner of Parcel "C," described below, said point is described as being located South fifty-six degrees nine minutes East (S 56° 09' E) a distance of forty-six and eight tenths feet (46.8') from the southwest corner of Parcel "C." The southwest corner of Part C is located on the northwesterly line of land now or formerly owned by FEFC and South fifty degrees seventeen minutes West (S 50° 17' W) a distance of two hundred thirty-five and nine tenths feet (235.9') from a ¾" steel pin marking the northwest corner of land now or formerly owned by FEFC, the northeast corner of land now or formerly owned by Price Enterprises, LLC and the apparent southerly line of Kennedy Memorial Drive.

Thence South fifty-six degrees nine minutes East (S 56° 09' E) through land now or formerly owned by FEFC for a distance of fifty-one and four tenths feet (51.4') to a point. Said point is located on a line approximately parallel and fifty feet (50') southeasterly as measured on a line perpendicular to the edge of the existing (Sept., 2004) parking lot pavement running near the northwesterly line of land of FEFC. The approximations are due to the inherent nature of the "edge of pavement."

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Thence North sixty-seven degrees sixteen minutes East (N 67° 16' E), more or less, through land of FEFC for a distance of sixty-one and five tenths feet (61.5'), more or less, to a point marking the southwesterly corner of another right-of-way previously granted to Gardiner Savings Institution by SBC Waterville Twin Theatres Corp. as recorded in Book 5280 at Page 197 of the Kennebec County Registry of Deeds and described herein as "Part A." [The approximate bearings and distances of this line are due to the vagueness of the exact location of the right-of-way limits granted to Gardiner Savings Inst. The line described herein is intended to run from the last mentioned point to the southwesterly limits of the first right-of-way granted to Gardiner Savings Institution (Book 5280, Page 197).]

Thence North thirty-three degrees fifty-two minutes East (N 33° 52' E) along westerly limits of "Part A," described herein-after, for a distance of one hundred fifty-five and eight tenths feet (155.8') to a point. (Part A being the same right of way described in the deed from SBC Waterville Twin Theatres Corp. to Gardiner Savings Institution (Book 5280 at Page 197) that runs along the westerly side of the parcel of land conveyed by that deed.)

Thence South fifty-eight degrees forty-eight minutes West (S 58° 48' W) along the remaining land of FEFC for a distance of one hundred seventy-three and five tenths feet (173.5') to a point marking the northeast corner of "Part C," described below, and an angle point in the westerly line of this "Part B."

Thence South forty-seven degrees twenty-eight minutes West (S 47° 28' W) along the westerly line of "Part C" for a distance of fifty-one and four tenths feet (51.4') to a point marking the southeasterly corner of "Part C," being the southwesterly corner of the herein-described "Part B" and the point of beginning.

Part B contains eight thousand eight hundred thirty-five square feet (8,835 sq. ft.), more or less, and is a portion of the land granted to Faith Evangelical Free Church by SBC Port Theatres Corp. by a deed recorded on September 10, 2002 in Book 7053 at Page 143 of the Kennebec County Registry of Deeds. Part B is located within the westerly portion of Parcel One described in said deed.

Part C

A certain right of way for the purpose of ingress and egress over land now or formerly owned by Faith Evangelical Free Church (FEFC) located off the southerly side of Kennedy Memorial Drive, Waterville, Kennebec County, Maine, bounded and described as follows, to wit:

Beginning at a point located on the boundary line between land now or formerly owned by FEFC, as recorded in Book 7053 at Page 143 of the Kennebec County Registry of Deeds, and land now or formerly owned by Price Enterprises, LLC as recorded in Book 6666 at Page 332 & 334. Said point is more particularly described as being located one hundred eighty-three and eight tenths feet (183.8') on a bearing of South fifty degrees seventeen minutes West (S 50° 17' W) from a 1/4" steel pin marking the northwest corner of FEFC, the northeast corner of land now or formerly owned by Price Enterprises, LLC and the apparent southerly limits of Kennedy Memorial Drive.

Thence continuing on the same bearing along the land of Price Enterprises, LLC for a distance of fifty-two and one tenth feet (52.1') to a point marking the southwest corner of Part C, herein-described.

Thence South fifty-six degrees nine minutes East (S 56° 09'E) through land of FEFC for a distance of forty-six and eight tenths feet (46.8') to a point marking the southeasterly corner of Part C and the southwesterly corner of Part B, described above.

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Thence North forty-seven degrees twenty-eight minutes East (N 47° 28' E) through land of FEFC and along a westerly line of Part B for a distance of fifty-one and four tenths feet (51.4') to a point marking the northwest corner of the herein-described right of way (Part C) and an angle point in the westerly line of Part B. This line to run approximately along the edge of pavement located on the westerly side of the existing (Sept. 2004) parking lot of FEFC.

Thence North fifty-six degrees nine minutes West (N 56° 09' W) through land of FEFC for a distance of forty-four and two tenths feet (44.2') to a point marking the northwest line of FEFC, the southeast line of Price Enterprises, LLC, the northwest corner of the herein-described right of way and the point of beginning.

The above described right of way is for ingress and egress of vehicular traffic from Part B, described above, through the westerly portion of land now or formerly owned by Faith Evangelical Free Church (Book 7053, Page 143) to land now or formerly owned by Price Enterprises LLC (Book 6666, Pages 332 & 334).

Part C contains two thousand two hundred seventy-four square feet (2,274 sq. ft.), more or less, and is a portion of the land granted to Faith Evangelical Free Church by SBC Port Theatres Corp by a deed recorded on September 10, 2002 in Book 7053 at Page 143 of the Kennebec County Registry of Deeds. Part A is located within the westerly portion of Parcel One described in said deed.

The bearings and distances of the right of ways described herein are based on a standard boundary survey performed by Rowe and Wendell Surveying for Faith Evangelical Free Church in August 2003.

2. *Description of easement.* The right granted to Price is for access, both ingress and egress, running from the traffic light on Kennedy Memorial Drive over the easement area to the property owned by Price as set forth in the Warranty Deed dated October 11, 2001 and recorded in the Kennebec County Registry of Deeds in Book 6666 Page 332.

3. *Restrictions and conditions on use of easement.* The grant of this easement is subject to the following restrictions, covenants and conditions which Price agrees and covenants shall apply both to the easement area and the use of the property described in the deed to Price as set forth in the Warranty Deed dated October 11, 2001 and recorded in the Kennebec County Registry of Deeds in Book 6666 Page 332.

- A. *General exceptions.* This easement is subject to the exceptions and restrictions set forth in Exhibit B of the deed to FEFC dated September 4, 2002 and recorded in the Kennebec County Registry of Deeds in Book 7053 Page 143.
- B. *Motion picture limitation.* This easement is subject to the terms and conditions of the motion picture use restriction set forth in the deed to FEFC dated September 4, 2002 and recorded in the Kennebec County Registry of Deeds in Book 7053 Page 143.

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- C. *Abortion restriction.* Price Enterprises, LLC, its heirs, lessees and/or assigns, shall not perform any abortions or provide any abortion inducing services or products on its property described in the deed to Price Enterprises LLC as set forth in the Warranty Deed dated October 11, 2001 and recorded in the Kennebec County Registry of Deeds in Book 6666 Page 332. Abortion shall have the same definition as found in 23 M.R.S.A. §1596(1)(A) on the date of this conveyance.
- D. *Obscene material/ adult entertainment restriction.* Price, its heirs, lessees and/or assigns, shall not use its property described in the deed to Price as set forth in the Warranty Deed dated October 11, 2001 and recorded in the Kennebec County Registry of Deeds in Book 6666 Page 332 or allow its property to be used for an adult book sales, adult mini-motion picture theaters, adult motion picture theater, cabaret or a drug paraphernalia store. The following definitions shall be used for the purpose of this paragraph:
- (1) *Adult Book Sales* The sale, distribution or trade of any stock-in-trade books, magazines and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas," or an establishment with a segment or section of its floor space or display area devoted to the sale or display of such material.
 - (2) *Adult Mini-Motion Picture Theater.* An enclosed building with an attendance capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons in the building.
 - (3) *Cabaret.* An adult club, restaurant, theater, hall or similar place that features topless dancers, go-go dancers, exotic dancers, strippers (male or female), male or female impersonators or similar entertainers exhibiting "specified anatomical areas" or performing "specified sexual activities."
 - (4) *Specified Anatomical Areas.* Less than completely and opaquely covered human genitals, pubic region; buttocks; female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - (5) *Specified Sexual Activities.*
 - (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy;

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(c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(6) Drug Paraphernalia Store. Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession is subject to the provisions of the federal Controlled Substances Act (21 U.S.C.A. Sections 801 et seq.), including, but not limited to, water pipes, pipe "screens," hashish pipes, "roach" clips, "coke" spoons, "bongs," and cigarette rolling paper, except that this shall not be deemed to include the sale of cigarette rolling paper that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.

E. *Alcohol sales restriction.* Price, its heirs, lessees and/or assigns, shall not conduct or allow a business to be located on the premises for which more than 60% of its gross revenues are derived from the sale of alcoholic beverages.

F. *Application.* The foregoing use restrictions and conditions are made for the benefit of the FEFC, its successors and assigns, and which restrictions and conditions impose a burden on the property owned by Price, to which burden every person who now or hereafter owns or acquires any right, title, estate or interest in or to the property owned by Price is and shall be conclusively deemed to have consented and agreed, regardless of whether any reference to such is contained in the instrument by which such person acquired such right, title, estate or interest unless and until the same are terminated as provided below. Recordation of this Deed shall constitute the agreement by Price, for itself and its successors and assigns, to be bound by and to comply with these use restrictions and conditions.

G. *Enforcement.* The parties acknowledge that there is a risk to FEFC of irreparable injury in the event of a breach of the covenants and restrictions set forth in this Paragraph 3, and that FEFC will lack a speedy and adequate remedy at law in the event of such breach. Accordingly, in addition to any other right or remedy FEFC may have, FEFC may seek specific performance of the covenants and restrictions and injunctive relief to prevent any breach thereof; no bond or other security being necessary with respect to such relief. If a court of competent jurisdiction determines that this restrictive covenant is unenforceable with respect to scope, duration, geographic area or any other matter, such court shall be empowered to substitute other enforceable provisions to provide the benefits intended by the covenants in this paragraph.

H. *Termination.* Should any of the restrictions in Paragraph 3 be violated, FEFC shall provide a written notice to Price providing 60 days to remedy the

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violation. Should Price be unwilling or unable to remedy said violation, this Easement may be terminated by FEFC upon an additional 30 day written notice to Price by FEFC. Price may terminate this Easement Agreement by providing FEFC a 30 day written notice.

4. *Construction and maintenance of roadway.* Price shall be solely responsible for the cost to construct and maintain that portion of the easement described as Part C. Any roadway construction shall be in accordance with any standards required by the City of Waterville and shall be approved by FEFC, its heirs or assigns, which approval shall not be unreasonably withheld. Price shall pay \$1,000.00 per year to FEFC toward repairs (including paving and repaving) and maintenance of the areas designated as Parts A and B. By paying this maintenance fee, Price shall not be obligated to contribute to any future paving or repaving projects in the affected easement areas, but neither is FEFC obligated to pave or repave the affected easement areas upon any particular schedule or upon the demand of Price, its heirs or assigns. This maintenance fee shall begin on January 15, 2006 and shall be due on January 15 of each calendar year thereafter. Failure to pay the maintenance fee by January 15 shall constitute default. After default and after giving sixty (60) days notice to cure, this easement may be terminated if Price should fail to pay the maintenance fee as required. This maintenance fee shall cease to be a requirement if FEFC may transfer title to the easement area to the City of Waterville.
5. *Snow removal.* Price shall be responsible for its own snow removal over the right of way and easement, but is not obligated to FEFC to remove any snow from the easement area. Price shall not cause snow to be piled or accumulated in such a way as to prevent or block access to the remainder of the premises owned by FEFC. While under no obligation to Price to remove snow from the easement area, FEFC shall not cause snow to be piled or accumulated in such a way as to prevent or block access to the property owned by Price.
6. *Attorney Fees.* In the event a lawsuit arises relative to the enforcement of any terms or conditions of this easement, the party that prevails in court shall be entitled to be reimbursed legal costs of suit including reasonable attorneys' fees.
7. *Record title.* For FEFC's source of title, reference is made to the deed dated September 4, 2002 and recorded in the Kennebec County Registry of Deeds in Book 7053 Page 143. For Price's source of title, reference is made to the Warranty Deed dated October 11, 2001 and recorded in the Kennebec County Registry of Deeds in Book 6666 Page 332.

SIGNATURES ON FOLLOWING PAGES

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Witness our hands and seals this 14th day of February, 2005.

Faith Evangelical Free Church

Tammi Harding
Witness

By: [Signature]
Michael F. Phillips, Jr., Church Chair

Tammi Harding
Witness

By: [Signature]
Blake Perry, Treasurer

STATE OF MAINE
KENNEBEC, ss.

February 14, 2005

Then personally appeared the above named Michael F. Phillips, Jr. and Blake Perry and acknowledged the foregoing instrument to be their free act and deed in their said capacities and the free act and deed of said corporation.

Before me,

Tammi L. Harding
Notary Public



TAMMI L. HARDING
Notary Public, State Of Maine
My Commission Expires September 11, 2009

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Price Enterprises, LLC

Tammi L. Harding
Witness

By: William E. Mitchell, Manager
William E. Mitchell, Its Manager

STATE OF MAINE
KENNEBEC, ss.

February 14, 2005

Then personally appeared the above named William E. Mitchell acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said company.

Before me, Tammi L. Harding
Notary Public



TAMMI L. HARDING
Notary Public, State Of Maine
My Commission Expires September 11, 2009

Received Kennebec SS.
02/16/2005 8:14AM
Pages 9 Attest:
BEVERLY BUSTIN-HATHEWAY
REGISTER OF DEEDS